

REMARKS

Summary of Changes Made

No changes have been made to the application. This response is filed solely to provide a Terminal Disclaimer that was inadvertently left out of the previous response, filed August 19, 2005. Accordingly, claims 1-13 remain pending in the application. No new matter has been added by this amendment.

Claim Rejections –Double Patenting (Provisional)

Claims 1-13 have been provisionally rejected under the judicially created doctrine of double patenting over claims 1-10 of copending Application No. 10/668,041. The Examiner contends that because the presence of mineral oil in claims 1-6 is optional, the claims are not patentably distinct from those of the copending application.

The Examiner will note that a Terminal Disclaimer is enclosed herewith, in accordance with 37 C.F.R. 1.130, 1.321(c), and 3.73(b), which disclaims the terminal portion of the term of any patent that issues from the instant application that extends beyond the expiration date of any patent that issues from copending U.S. Application Ser. No. 10/668,041 to Panek et al., ("the '041 application"). Applicants herein assert that the subject matter in the instant application is commonly owned with the subject matter of the aforementioned Panek application. Both the instant application and Panek draw priority from the same provisional application, U.S. App. Ser. No. 60/414,137, filed September 27, 2002. Further, the cited copending '041 application was filed on even date herewith, September 23, 2003, so any double patenting issues would arise only if the term of either patent were extended under the provisions of 35 U.S.C. 154(b). In any case, the filing of the Terminal Disclaimer herewith is believed to render moot the 35 U.S.C. 102 double patenting rejection.

CONCLUSION


In light of the foregoing, it is respectfully submitted that the present application, including claims 1-13, is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

It is expressly acknowledged that the rejection of claims 1- 6 over Grant and the rejection of claims 10-11 over Jochmann have been withdrawn.

If there are any additional fees resulting from this communication, please charge the same to our Deposit Account No. 06-0625, our Order No. FER-14205.

Respectfully submitted,

RANKIN, HILL, PORTER & CLARK LLP



Kenneth A. Clark
Reg. No. 32,119
Christopher J. Korff
Reg. No. 55,342

925 Euclid Avenue
Suite 700
Cleveland, Ohio 44115-1405
(216) 566-9700